

**NEBRASKA REAL PROPERTY APPRAISER BOARD
NRPAB OFFICE MEETING ROOM, FIRST FLOOR
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

June 23, 2016 Meeting Minutes

A. OPENING

Chairman Marc Woodle called to order the June 23, 2016 meeting of the Nebraska Real Property Appraiser Board at 8:19 a.m., in the Nebraska Real Property Appraiser Board meeting room located on the first floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

B. NOTICE OF MEETING

Chairman Woodle announced the notice of the meeting was duly given, posted, published, and tendered in compliance with the Open Meetings Act, and all board members received notice simultaneously by email. Publication of official notice of the meeting appeared in the June 20, 2016 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this state, as required by the Open Meetings Act. The agenda was kept current in the Nebraska Real Property Appraiser Board office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public, and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Marc Woodle, Christopher Langemeier, Sandra Gutwein, Benjamin Hynek, and David Bloxham were present. Also present were Director, Tyler Kohtz, Compliance and Education Specialist, Grant Krieger, and Business and Licensing Specialist, John Brady.

ADOPTION OF THE AGENDA

Chairman Woodle reminded those present for the meeting that the agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Langemeier moved to adopt the agenda as printed. Board Member Hynek seconded the motion. With no further discussion, the motion carried with Langemeier, Gutwein, Hynek, Bloxham, and Woodle voting aye.

The Nebraska Real Property Appraiser Board will meet in executive session for review of applicants and enforcement matters.

Board Member Langemeier moved that the Board go into executive session for the purpose of reviewing applicants for credentialing; applicants for appraisal management company registration; investigations; pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation; and employee performance evaluation. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. Chairman Woodle asked for a second. Board Member Hynek seconded the motion. The time on the meeting clock was 8:21 a.m. The motion carried with Langemeier, Gutwein, Hynek, Woodle, and Bloxham voting aye.

Break from 9:03 a.m. to 9:17 a.m.

William G. Blake appeared before the Board at 9:18 a.m.

Board Member Langemeier moved to come out of executive session at 11:13 a.m. Board Member Bloxham seconded the motion. The motion carried with Langemeier, Gutwein, Hynek, Woodle, and Bloxham voting aye.

Break from 11:13 a.m. to 11:54 a.m.

Lunch served to board members and staff at 11:30 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairman Woodle had no comments.

H. BOARD MEETING MINUTES

1. APPROVAL OF MAY 19, 2016 MEETING MINUTES

Chairman Woodle asked for any additions or corrections to the May 19, 2016 minutes. With no further discussion, the Chairman called for a vote. Board Member Langemeier moved to adopt the May 19, 2016 meeting minutes as presented. Board Member Bloxham seconded the motion. The motion carried with Gutwein, Bloxham, Hynek, Langemeier, and Woodle voting aye.

I. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of June 23, 2016. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – JUNE 2016

1. APPROVAL OF APRIL RECEIPTS AND EXPENDITURES

The receipts and expenditures for May were reviewed by the Director by line item with the Board. Director Kohtz brought attention to travel expenses, and informed the Board that the board and lodging expense includes hotel from the Spring AARO Conference.

For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$25,249.29 in expenditures and \$11,407.62 in revenues were reported. As of the end of May, expenses amount to 64.04 percent of the budgeted expenditures for the fiscal year; 92.05 percent of the fiscal year has passed. Director Kohtz finished by presenting three charts outlining the Agency twenty-five month expenses and revenues, historic cash balance, and twenty-five month cash balance.

Board Member Langemeier moved to accept and file the May 2016 budget reports for audit. Board Member Hynek seconded the motion. The motion carried with Langemeier, Gutwein, Hynek, Bloxham, and Woodle voting aye.

2. PER DIEMS

Director Kohtz informed the Board that he has no per diem requests for this meeting. Chairman Woodle asked if any board members had a request for the Board to consider. There was no further discussion.

K. GENERAL PUBLIC COMMENTS

Chairman Woodle asked for any public comments. There were no public comments.

L. EDUCATION

Board Member Hynek moved to approve the following education activities and instructors as listed:

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Appraisal Institute

Case Studies in Appraising Green Residential Buildings (C21613)/7 Hours – Sandra Adomatis

Online FHA Appraising – Principles and Procedures (C21614-I)/7 Hours – Craig Harrington

National Business Institute

Land Use Law: Current Issues in Subdivision, Annexation and Zoning (C21615)/7 Hours – Keith Marvin, David Levy, Mike Linder, James Lange

RENEWAL OF CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Appraisal Institute

Online Comparative Analysis (C21125-I)/7 Hours – Arlen Mills

OnCourse Learning

Income Capitalization Overview (C2726-I)/7 Hours – Bud Black

Cost Approach Overview (C2716-I)/7 Hours – Bud Black

Sales Comparison Approach (C2727-I)/7 Hours – Bud Black

INSTRUCTORS ONLY

McKissock, LP

Analyze This! Applications of Appraisal Analysis – Live Webinar (C21407-I) – Joshua Walitt, Steven Craddock, Robert McClelland

UAD – Up Close and Personal – Live Webinar (C21406-I) – Joshua Walitt, Steven Craddock, Robert McClelland

The New FHA Handbook 4000.1 – Live Webinar (C21556-I) – Joshua Walitt, Steven Craddock, Robert McClelland

Work File: Your Best Defense Against an Offense (C21552-I) – Robert McClelland

Seconded by Gutwein. Chairman Woodle called for the vote. The motion carried with Gutwein, Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to correct the course number for the Appraisal Institute activity titled “Valuation in Challenging Markets” from C21118-I to C21118. Seconded by Hynek, and carried with Woodle, Langemeier, Bloxham, Hynek, and Gutwein voting aye.

M. UNFINISHED BUSINESS

- 1. BOARD MEMBER RECOGNITION:** Director Kohtz presented an updated price quote, design proof, and CADD drawings prepared by Cornhusker Industries related to the board member recognition plaque that includes the Board's April recommendations to the Board for review. Board Member Langemeier asked, "Does the quote includes initial and subsequent engraving for board members?" Director Kohtz responded that he does not know the answer, but will request the information for Cornhusker Industries. Director Kohtz then asked the Board, "Do you prefer the alternating color tags or one color?" The Board indicated that it would prefer the gold or bronze color only. Director Kohtz informed the Board that he will request the information regarding costs, and an updated proof with the gold/bronze color tags only from Cornhusker Industries.

N. NEW BUSINESS

- 1. BUSINESS AND LICENSING SPECIALIST OPENING:** Director Kohtz presented the job description for the Business and Licensing Specialist to the Board for review. The Director informed the Board that the opening is currently posted, and he hopes to make a hire in early July. Board Member Gutwein asked if something needs to change to prevent the turnover in this position. Chairman Woodle brought notice to the bad luck and stated, "We have had a bad run with this position, but it has nothing to do with the job itself. One took a promotion with another agency, one decided to stay home with her baby, and one moved to another agency to use his twenty years of experience as a teacher more effectively in the field." Board Member Bloxham commented the difficulties in finding a good long term fit for a position. Director Kohtz indicated that he was making changes to the evaluation procedures to open the door to a wider range of candidates. Chairman Woodle responded that he hopes this change in procedure will result in a good long term fit for the agency. Director Kohtz finished the conversation by saying that it is important that stability is established with both positions. Every person has his or her own unique way of carrying out his or her duties, and turnover in this position greatly affects the agency's accounting consistency and ability to complete the Board's goals and objectives. For example, a significant amount of time was allocated to training during this fiscal year, which took time away from Board established projects. The Director continued by saying that the Board has a good internal control procedure in place, and that he is very diligent about keeping track of all accounting transactions, but without establishing a long term relationship, it is hard to know what may be slipping through the cracks; the agency's current and long term needs will be taken into consideration during the evaluation of applicants.

O. LEGISLATIVE REPORT AND BUSINESS

- 1. TITLE 298 UPDATE:** Director Kohtz indicated that contacts the Governor's Policy and Research Office weekly for an update, and he was told by Ms. Northwall that Title 298 is currently on the Governor's desk for review.

P. BOARD POLICIES AND PROCEDURES

- 1. BOARD POLICIES**
 - a. Current Board Policies:** No discussion.

Break from 12:49 p.m. to 1:03 p.m.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION

- a. The Appraisal Foundation Lvl. II Investigator Training; August 1-3, 2016:** Director Kohtz presented The Appraisal Foundation's Level II Investigator Training Course to the Board for consideration of approval of attendance for Compliance and Education Specialist Krieger. The course will be held from August 1st through 3rd in St. Louis, MO.
- b. The Appraisal Foundation Lvl. III Investigator Training; September 19-21, 2016:** Director Kohtz presented The Appraisal Foundation's Level III Investigator Training Course to the Board for consideration of approval of attendance for Compliance and Education Specialist Krieger. The course will be held from September 19th through 21st in St. Louis, MO.

Board Member Hynek moved to approve Compliance and Education Specialist Krieger for attendance of The Appraisal Foundation's Level I and Level II Investigator Training Courses. The motion was seconded by Gutwein, and carried with Bloxham, Langemeier, Gutwein, Hynek, and Woodle voting aye.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

- a. ASC Notice of Proposed Rule Making AMC Registry Fees:** Director Kohtz presented the ASC Notice of Proposed Rule Making concerning AMC Registry Fees to the Board for review. The Director informed the Board that there are not many surprises in the proposed rules, and indicated that comments may be made through July 19, 2016. Director Kohtz summarized the proposed rules for the Board, and specifically mentioned that the fee totals for each AMC will be established by the number of appraisers on an AMC's panel utilizing a multiplier for those companies that have not been registered for a full year; the proposed fee is \$25.00 per appraiser, which may be adjusted up to \$50.00 per appraiser. The application of the fee is still up in the air, as the ASC outlined three different options: 1) all appraisers on a panel accepted by the AMC for consideration for future assignments; 2) all appraisers engaged in a covered transaction during the reporting period; and 3) all appraisers that performed an appraisal for the AMC on a covered transaction. The Director stated that for all these options the phrase "working for or contracting with" would need to be defined by the ASC.

6. APPRAISAL FOUNDATION

- a. Appraisal Practices Board Public Meeting – July 15, 2016:** Director Kohtz brought attention to the next meeting of The Appraisal Foundation's Appraisal Practices Board. There was no further discussion.
- b. The Appraiser Qualifications Board June Q&As:** Director Kohtz presented the Appraisal Qualifications Board June Q&As to the Board for review. The Director summarized the Q&As concerning trainee inspection of a property without a supervisory appraiser, and also how the scope of practice is determined for a "condotel" assignment.

7. IN THE NEWS

- a. Customary and Reasonable Fees (2 Appraisal Buzz Articles, Nebraska VA Appraisal Fee and Inspection Schedule):** Director Kohtz presented two Appraisal Buzz articles, one titled, “Customary and Reasonable Fees, Empowered to Enforce,” and a second titled, “A Letter to the Editor,” along with the Nebraska VA Appraisal Fee and Inspection Schedule to the Board for review. Director Kohtz informed the Board that the first article is interesting because the State of Virginia takes the maximum fee amount established by the VA and declares that it is customary and reasonable. The Director continued by stating that this methodology makes little sense because the VA establishes a maximum amount that can be paid, which means that an appraiser could and may charge more for a non-VA assignment with the same scope. The effect of a non-VA appraisal fee is not taken into account, nor is the idea that a less could reasonable charged for a VA appraisal assignment.

The second article titled “A Letter to the Editor” brings additional issues concerning Virginia’s methodology for establishing “customary and reasonable.” Specifically, there is more than one manner to comply with the Federal Truth in Lending Act, which is not taken into account by the State of Virginia. Director Kohtz thought that the number of issues brought to light concerning the State of Virginia’s establishment of “customary and reasonable” was interesting, and shows how this matter is not black and white.

- b. U.S. Congress House and Senate Appraisal Oversight Letter:** Director Kohtz brought attention to a letter sent to Congressmen requesting that the House Financial Services Committee and the Senate Committee on Banking, Housing and Urban Affairs hold hearings on the future of appraisal regulations. The Director informed the Board that the last hearing took place in approximately 2012, and it was interesting to see the different views and opinions that came to light during testimony. Director Kohtz indicated that if a hearing does take place in the near future, it would be interesting to see how views have changed since 2012.
- c. Time Has Come Today:** Director Kohtz presented an article titled “Time Has Come Today” to the Board for review, and informed the Board that he found it refreshing that an appraiser spoke supportive of appraiser and AMC laws. The Director continued by saying that sometimes the purpose and intent of regulations, which is to protect the public, gets lost in the discussion. There was no further comment.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER

Board Member Langemeier moved to take the following actions for the applicants as listed:

T16001 / Approve

T16002 / Approve

T16003 / Approve

T16004 / Approve

T16005 / Approve; send advisory letter informing applicant that a Supervisory Appraiser registered with the Board is required prior to engaging in real property appraisal practice for experience credit acceptable for credentialing.

T16006 / Approve

T16001 (SA) / Approve

T16002 (SA) / Approve

T16003 (SA) / Approve

T16003 (SA) / Approve

T16003 (SA) / Approve

T16003 (SA) / Approve

T16004 (SA) / Approve

T16004 (SA) / Approve

T16006 (SA) / Approve

L16001R / Approve as a Licensed Residential Real Property Appraiser.

L16002R / Approve as a Licensed Residential Real Property Appraiser.

CR16005R / Requirements for credentialing as a Certified Residential Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG16006R / Approve as a Certified General Real Property Appraiser.

CG16007R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG16008R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CR16004 / Deny; send letter with explanation.

CG15015 / Deny; send letter with explanation and redacted copy of Standard 3 Review. Open Inquiry I16-01 on Supervisory Appraiser.

Board Member Hynek seconded the motion. Motion carried with Gutwein, Hynek, Bloxham, Woodle, and Langemeier voting aye.

Board Member Langemeier moved to approve the late renewal applications as listed and any others received by 5 p.m. on June 30, 2016 with advisory letter if all related renewal information is correct. The motion was seconded by Hynek, and carried with Langemeier, Bloxham, Hynek, Gutwein, and Woodle voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

Board Member Langemeier moved to take the following actions for AMC applicants as listed:

NE2016007 / Requirements for registration as an Appraisal Management Company approved as submitted. Authorize Director to issue registration upon completion of background check.

NE2016008 / Approve registration as Appraisal Management Company.

NE2016009 / Requirements for registration as an Appraisal Management Company approved as submitted. Authorize Director to issue registration upon completion of background check.

Board Member Hynek seconded the motion. Motion carried with Langemeier, Hynek, Bloxham, Gutwein, and Woodle voting aye.

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Langemeier moved to take the following enforcement actions:

16-05 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (16).

16-06 / Dismiss without prejudice.

14-22 / Monitor Consent Agreement; send redacted copy of Standard 3 Review.

14-23 / Monitor Consent Agreement; refer to 14-22.

14-24 / Monitor Consent Agreement; refer to 14-22.

14-26 / Monitor Consent Agreement; refer to 14-22.

14-27 / Monitor Consent Agreement; refer to 14-22.

15-03 / Dismiss without prejudice.
15-05 / Hold
15-09 / Hold
15-14 / Ongoing
15-15 / Authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (4) and (14).
15-16 / Ongoing
15-18 / Ongoing
15-19 / Ongoing
16-02 / Correct charging from Neb. Rev. Stat. § 76-2238 (1) to 76-2238 (16).
16-03 / Ongoing
16-04 / Authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. § 76-3216 (1) (c).

Board Member Bloxham seconded the motion. Motion carried with Gutwein, Langemeier, Bloxham, Hynek, and Woodle voting aye.

Board Member Langemeier moved to take the following enforcement actions:

15-22 / Ongoing
15-23 / Ongoing
15-24 / Ongoing

Board Member Hynek seconded the motion. Motion carried with Hynek, Bloxham, Langemeier, and Woodle voting aye. Gutwein abstained.

Board Member Langemeier moved to take the following enforcement actions:

14-32 / Dismiss without prejudice.
14-33 / Dismiss without prejudice.

Board Member Hynek seconded the motion. Motion carried with Bloxham, Gutwein, Hynek, and Langemeier voting aye. Woodle abstained.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

Board Member Langemeier moved to take the following actions for other executive session items:

I14-32 / Close
I14-33 / Close

Board Member Hynek seconded the motion. Motion carried with Bloxham, Hynek, Langemeier, Gutwein, and Woodle voting aye.

Break from 2:13 p.m. to 2:23 p.m.

R. 2016-17 STRATEGIC PLANNING

- 1. CHAIRMAN'S STATE OF THE BOARD REPORT:** Chairman Woodle began his report by indicating that things have come a long way in four years. The Chairman continued by stating, "It's like disco, it was cool at the time, but when you look back, it was not." Chairman Woodle then referenced some Board accomplishments during his time on the Board. Specifically, closed session being moved to the beginning of each meeting to allow the Board to be more efficient as it analyzes complex information; although not perfect, the changes to the investigative procedures implemented last year have allowed the Board to operate in a decision making capacity and not an investigative capacity; the shift of many duties back to the agency, once again freeing the Board to focus on decision making; and successfully facing the unique challenge of incorporating many new board members during a small period of time. Chairman Woodle declared that the Board now has an experienced director and a good staff. The Chairman then brought attention to the first time Director Kohtz recommended a strategic planning meeting four years ago; that meeting went well into the evening, but it laid the ground work for many things that have been accomplished during the past four years. The purpose of this meeting is to build on what has been started.

- 2. DIRECTOR'S COMMENTS:** Director Kohtz thanked the Board and staff for their hard work, and stated that the past year was successful, but some things were left on the table. The Director began with accomplishments during the past year, which includes the passing of the biennial USPAP bill, the near completion of the Title 298 rewrite, investigative procedures being moved from a vision to practice, developing the Compliance and Education Specialist position into an effective investigative position, the development and release of the Board's first newsletter, and the successful transition from paper to electronic USPAP.

The Director also provided insight into some areas that he felt expectations were not met. The database project is still not completed, work has not begun on the Trainee/Supervisory Appraiser Q&A Session, little time was spent on the development of the Review/SME program, and a plan to promote the profession has not been developed. Director Kohtz informed the Board that much focus this fiscal year was placed on training staff, which took away from the projects mentioned.

Director Kohtz then turned to the future, and indicated that priorities include the AMC legislation, completing the unfinished tasks previously established by the Board, building a plan for staff stability, update Title 298 with changes made in LB731, establish background check criteria, and complete the 2017-19 biennial budget request.

The Director finished by informing the Board that strategic planning is the Board's opportunity to provide a road map for the staff to follow during the next fiscal year. The goal is to set objectives, not to establish how the objective will be accomplished.

- 3. REVIEW OF 2015-16 STRATEGIC PLANNING GOALS AND OBJECTIVES:** The Board reviewed each goal and objective set for 2015-16, and evaluated the progress made on each item. The following items were noted:
 - The Title 298 rulemaking process was completed, and is at the Governor's office for review.
 - Biennial USPAP update bill was introduced as LB731 and passed on Final Reading on March 31, 2016, and signed by the Governor on April 6, 2016.

- The Board spend time during the past fiscal year exploring its position concerning customary and reasonable fees. It is still the Board's position that this matter is the jurisdiction of the Office of the Comptroller of the Currency which is charged with enforcement of the Truth and Lending Act. Also, the Board agreed to not proceed with a fee study at this time.
- Effectiveness of compliance procedures continues to be monitored.
- The expected completion date for expanding the Standard 3 reviewer program, trainee/supervisory appraiser Q&A session, developing background check review guidelines, and developing a plan to increase the number of appraisers credentialed in Nebraska will all be moved to July 1, 2017.
- The education course processes and procedures and course number redevelopment will follow approval of the Title 298 draft. The education program is being defined with great detail in Title 298 for the first time, and little work will be required to complete this goal. The expected completion date will be moved to July 1, 2017.
- Work with the Banking, Commerce, and Insurance Committee's Legal Counsel will begin soon to address current administrative issues in the AMC Registration Act, the AMC Final Rule, and new ASC Policy Statements. The expected completion date is January 1, 2017; however, this is dependent on the progress of the ASC Policy Statements currently under development.
- Communication was re-established with the University of Nebraska at Omaha Real Estate Program during this past fiscal year.
- The quarterly Memo From the Board to announce credential changes, and provide an appraiser credential summary through charts and graphs became "The Nebraska Appraiser" newsletter; the first edition was released in Spring of 2016.
- Because so much focus was placed on training, little encouragement was provided to staff to develop Memos From the Board and Facebook posts containing interesting facts and items of interest to the appraiser community.
- Little work was completed on the Board's database during the past fiscal year due to issues out of the Board's control. This will continue to be a priority into the next fiscal year.
- The reciprocal applicant appraisal log requirement was removed from the Real Property Appraiser Act in LB731.

4. FINANCIAL

- a. Review of Current Fiscal Year:** The Board reviewed the expenses and revenues for the current fiscal year as of June 16, 2016. Director Kohtz provided details related to some specific expense totals. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$327,122.18 in expenditures and \$331,761.87 in revenues were reported. As of June 16th, expenses amount to 66.89 percent of the budgeted expenditures, and revenues amount to 100.54 percent, for the fiscal year; 96.44 percent of the fiscal year has passed. The Director informed the Board it took a while to get the compliance program back up and running after the procedure changes, which resulted in lower than usual Legal Services Expense. Also, little work was completed by CIO on the database, so only approximately \$23,000.00 of the \$79,409.00 allocated for this project was utilized. Finally, credential applications were far below projected, which along with the ramping up of the compliance program, caused Other Contractual Service expenditures to come in below projections. As for revenues, the only item to note was the drop off in the number of credential applications for this past fiscal year, which had an impact on the projected revenues.
- b. 2016-17 Projections:** Director Kohtz presented four graphs outlining revenue and expenditure projections during the next two fiscal years. Director Kohtz informed the Board that the expenditures were based on a seventy-five percent, twenty-five percent split between the Real Property Appraiser Fund and the AMC Fund. The Director anticipates a reduction in the overall cash balance of \$80,352.00 during the next two fiscal years; the upcoming database project has a remaining allocation of \$68,000.00. The Board's current expenses and revenues are balancing, but due to projections, this may not be the case during the next two fiscal years ahead. During budget preparation FY 2016-17 and the 2017-2019 Biennial Budget, this, along with funding for large projects should be considered.
- c. FY 2016-17 Budget:** Director Kohtz presented the preliminary FY 2016-17 budget to the Board for review, and highlighted the following items:
- FY 2016-17 includes projected carryover from the FY 2015-16 budget in the amount of \$145,850.74.
 1. \$68,410 reallocated for the data base improvement project.
 2. \$5,250 allocated for Trainee 500 Hour Courtesy Review.
 3. \$72,190.74 of carryover not included in FY 2016-17 projected budget.
 4. Potential FY 2016-17 projects include online appraiser credentialing and AMC applications (no credit card payment), AMC Fee Study, Trainee/Supervisory Appraiser Q & A, Standard 3 Reviewer/SME training.
 - When subtracting the carryover for the database improvement project, the budgeted amount for FY 2016-17 is \$387,950.00. The FY 2016-17 appropriation is \$388,173.00.
 - The Department of Administrative Services – Accounting Division has retired object code 521100: Comm Exp-Voice Data (phone). These expenditures are moved to 521400: Data Processing Expenses at DAS – Accounting's advisement.
 - Budget includes \$18,606.48 for Family Wellness Health Plan for BLS position. Currently, no allocation is included in the budget for this position for health insurance.

- Reviewer Fees utilized for projections (Board Policy 12-07):

Applicant Reviews

Residential: 4 Hours x \$75.00 = \$300.00

2-4 Family: 6 Hours x \$75.00 = \$450.00

Agriculture: 8 Hours x \$75.00 = \$600.00

Commercial: 10 Hours X \$75.00 = \$750.00

SME

Residential: 6 Hours x \$75.00 = \$450.00

2-4 Family: 9 Hours x \$75.00 = \$675.00

Agriculture: 12 Hours x \$75.00 = \$900.00

Commercial: 15 Hours X \$75.00 = \$1125.00

The above fees result in a contract at \$75.00 per hour with caps on the amount of billable hours based on property type.

- An amount of \$9,760 is included in the FY 2016-17 budget for a seasonal SOS Temporary Employee (Secretary II) to assist with renewals from September through January. Budgeted amount increased by \$4,040.
- 541500: Legal Services Expenses increased by \$5,000.00 to cover legal fee increased approved by the Board at its February 18, 2016 meeting.
- \$1,735.54 in Travel Expenditures removed to reflect current practices and expenditures. Travel Expenditures still include 2 trips to Spring AARO and 2 trips to Fall AARO. \$1,700.00 in miscellaneous expenditures included for travel as needed.

Director Kohtz indicated that one of his priorities during this next fiscal year or during the development of the 2017-2019 Biennial Budget is to evaluate the Compliance and Education Position classification. According to the Director this position has grown into a full investigative position, and it should be evaluated to see if pay is in-line with the position's peers. Board Member Langemeier asked if any potential increase would have an effect on the Board's expense/revenue ratio. Director Kohtz referred to the "Appraiser/AMC Revenues" chart on page R.7, and said that the projected base would be \$342,724.00 when actual expenditures are at 10% of budgeted after the database project amount is subtracted. Board Member Langemeier asked the Director if he could include a breakdown showing the base projected expenditures next month for the budget discussion. Director Kohtz informed the Board that he will have these projections available at the July meeting.

Board Member Hynek asked if the reviewer fees could be increased. Director Kohtz responded, yes they can be, but that money has to come from somewhere. The Director continued by saying that the Board established this fee schedule after discussing available funding and reasonable expenditures last year. Board Member Hynek asked if a breakdown could be prepared showing the effect on the budget at different fee levels. Director Kohtz asked Board Member Hynek if he would like to see the number of hours or the hourly rate changed. Board Member Langemeier asked that both be considered. Director Kohtz informed the Board that he will have a breakdown of different rates and number of hours prepared for the July meeting.

- d. Fees:** Director Kohtz asked if the Board would like to see any fee changes. There was no discussion.

- e. **2017-19 Biennial Budget:** Director Kohtz informed the Board that preparation for the 2017-2019 Biennial Budget will begin soon. The Director continued by saying that his only items of discussion right now are continuing the database project as needed into the future, and the evaluation of the Compliance and Education position. Director Kohtz then asked the Board for thoughts on the next budget cycle. Board Member Langemeier indicated that many states are moving back to paper USPAP, and he would like to see Nebraska do the same if possible. The Director informed the Board that the Appropriations Committee has been very clear in the past that it does not see the distribution of USPAP books to Nebraska resident appraisers as a necessary expense, but there will be a new Committee Chairman, so this may be a good time to revisit this matter. Board Member Langemeier then asked if there will need to be an appropriation for the database project during the next cycle. Director Kohtz responded that there will likely be a need depending on the amount of work completed during this fiscal year. The hard part is knowing what CIO will accomplish. Board Member Langemeier then recommended that Director Kohtz update the Legislative Fiscal Office on the current progress of the database project, so that if it is determined late in the budget process that funding will be needed, the Fiscal Office is aware of the situation.

5. LEGISLATIVE GOALS AND OBJECTIVES

- a. **Real Property Appraiser Act:** Chairman Woodle brought attention to the Real Property Associate, and said that the purpose was to provide a designation for those that do mass appraisal work for assessment purposes. Since LB729 passed, which exempts contractors providing these services from the Real Property Appraiser Act, there is no longer a reason for the Real Property Associate. Board Member Langemeier agreed with this assessment, and stated that the Real Property Associate should be sunset. Director Kohtz indicated that he will include this in the next Real Property Appraiser Act bill. The Director continued, next year the focus should be on the AMC Registration Act, so it will likely be January 2018 when the next Real Property Appraiser Act bill is introduced; this will be added to long term planning.
- b. **Appraisal Management Company Registration Act:** Director Kohtz presented his hearing testimony for LB684 and the AMC Final Rule to the Board for review. The Director indicated that the AMC Final Rule went into effect August 10, 2015, which gives states until August 10, 2018 to become compliant with the requirements. The Director continued by saying that the next AMC Registration Act bill should be introduced at the beginning of the next long session in January 2017. The ASC is in the process of developing Policy Statements concerning the AMC Federal Registry, so this might be the only obstacle to getting the bill introduced in January. In addition to the AMC Final Rule, the Director informed the Board that he intends to revisit some of the administrative and enforcement issues established that became the foundation for LB684. There was no further discussion.
- c. **Title 297:** No discussion.
- d. **Title 298:** The Director informed the Board that the current draft of Title 298 is at the Governor's office for review. The Director then turned to the future and informed the Board that any future draft will move quickly now that a solid foundation is in place. The following items were discussed for a FY 2016-17 draft of Title 298:
- Incorporate changes from LB731.
 - Consider comments received for the January hearing during the next draft.
 - Since the Board intends to sunset the Real Property Associate credential, it can also be removed from Title 298.

A discussion also took place concerning software specific training. Director Kohtz indicated that he wanted to bring this up since it became an issue during the past year. The Director asked if the Board would like to see a rule addressing this. Board Member Langemeier commented that the rules adequately address this now, but the Board has to decide how it wants to interpret this specific situation through the rules and statutes. Board Member Langemeier then recommended that a Board Policy would be sufficient to accomplish this. The Board agreed with Board Member Langemeier's assessment. Director Kohtz informed the Board that a Board Policy will be drafted to address software specific training.

Director Kohtz then turned the conversation to mass appraisal experience, and informed the Board that Chairman Woodle asked for this item to be added to the agenda. Chairman Woodle brought attention to LB729, and the fact that 25% of acceptable experience could be through mass appraisal. According to the Chairman, because of LB729 all mass appraisal work for county assessors is exempt from the Act, and not under the Board's authority. The Chairman then asked if there was any benefit to removing the 25% from acceptable experience. Board Member Hynek asked if the experience still has to meet specific criteria. Board Member Langemeier responded that all experience would still have to be USPAP compliant work. Director Kohtz agreed with Board Member Langemeier and recalled an applicant from a couple years ago that was using mass appraisal experience by writing a USPAP compliant hypothetical report to mirror the work he was doing for the county assessor's office, but that individual was a registered appraiser at that time and the work was under this current scope. Any new applicant, unless he or she were upgrading from licensed, would have to have a supervisory appraiser overseeing the work, which would make it unlikely that mass appraisal experience would be submitted since the supervisory appraiser would be exempt from USPAP for performing the work in the first place. The Board agreed that no changes are needed.

Break from 3:34 p.m. to 3:41 p.m.

6. COMPLIANCE

- a. **Review of Enforcements/ Investigations:** Compliance and Education Specialist Krieger presented nine charts and graphs to the Board for review outlining the status of the enforcement program.
- b. **Standard 3 Reviewer Survey:** Director Kohtz asked to hold discussion on this item until the July meeting. There was no further discussion.
- c. **Enforcement Program Goals and Objectives:** Director Kohtz brought attention to the investigative procedures and indicated that this was the first full year the procedures have been in effect. Because of staff turnover, it took some time to get things rolling, but now it is moving right along. The Director then opened the Board to discussion. Board Member Langemeier asked CES Krieger how long the intake processing takes. CES Krieger responded that this process takes a few hours to a few days depending on how much information is needed, and how long it takes to put the documentation together for the board meeting. Chairman Woodle commented, "So, this part does not take a significant amount of time?" Director Kohtz stated, "This process is pretty quick, the main investigation is what takes the most time." CES Krieger added, "Our goal for investigations is to have the final report to you within six months of the initial filing of the grievance. Things that impede this process includes active litigation; communicating through attorneys; unforeseen issues, such as a respondent or SME not responding or getting information to the agency in a timely manner."

Board Member Hynek stated, "I have no issues with the process, but I don't understand how we are supposed to make a decision with the limited information we are getting." Director Kohtz responded, "The Board's role in the process is to determine if the agency's investigation recommendation is supported by the evidence included. We don't want focus to move from the Board adjudicating a grievance to board members conducting separate investigations and reaching separate conclusions." The Director then mentioned that the separation of duties ensures due process for the respondent. Chairman Woodle reminded that Board of the time dedication under the old system, and said, "We used to each put in forty hours a month on investigations, now we just have to consider the evidence in front of us. The system works because staff spends dedicated time proving or disproving what the reviewer states in his review, and it doesn't scare away future potential board members." Chairman Woodle added, "If we go to hearing, we have a good chance of winning now. Before, we would offer a consent agreement and tell the appraiser that he or she needs to be better. The problem was that, although the intent was good, the evidence didn't always support the penalty, which is what got us in trouble in the past. We think that we are going to settle, but the appraiser says no, then we go to hearing with a lack of evidence." Board Member Hynek reiterated that he didn't have an issue with the procedures, just the information the Board is receiving. Board Member Langemeier asked, "What does the Board get for review? I like the condensed evidence, but is more information available to the Board?" Director Kohtz responded that the Board gets everything but the immaterial documents." CES Krieger corrected the Director, and said that the Board typically gets everything that he has. The Director informed the Board that the presentation of the exhibits could change. Maybe the agency needs to do a better job at making sure that the Board knows what is available for review with the final report. CES Krieger said that he only puts the exhibits in the investigative folder in the Board Member Portal, but he could start including a link to the evidence similar to what is done for applicants. The Board agreed that this would be a good idea.

Board Member Hynek than commented about the log the Board reviews in between each meeting, and stated "It seems like a lot is done in between meetings that we don't know about." Director Kohtz responded that the Board used to receive a full investigative log, but asked that it be reduced to include only basic information. Board Member Langemeier added, "The log used to include everything from phone calls made and received to when documents were sent or received, it was overwhelming to look at it each month." Board Member Woodle stated, "This change was a part of the curtain between the Board as the adjudicator and the staff as the investigator. We don't want all the details that could influence our decision making." Board Member Hynek asked if the Board could at least be given a written update on the log as to the status of the investigation each month. Director Kohtz informed the Board that this can be done. The Board agreed that the log should be expanded to include a monthly status summary for each investigation. Board Member Bloxham asked that the table of contents be expanded to include a brief description of what changed from last month. CES Krieger stated that he could easily do this. Board Member Bloxham indicated that it is difficult for new board members to understand what is going on for each case, because he or she was not here when the Board considered the initial grievance. Board Member Woodle recommended that the agency include a meeting with CES Krieger as part of the initiation meeting. Director Kohtz informed the Board that this is a great idea, and will begin incorporating a compliance update meeting the next time a new board member is appointed.

Board Member Gutwein then brought attention to the Board's duty to remain objective during the investigative and adjudication process, and recommended that the respondent's name be withheld from the Board through at least the beginning of the investigation. Chairman Woodle responded that he feels that it is important that the Board knows who the respondent is. Chairman Woodle continued by saying, "If the Board doesn't know who they are considering, how would they know if the person has multiple investigations open, or has a history of disciplinary action?" Director Kohtz agreed with Chairman Woodle's assessment. Board Member Gutwein indicated that she feels that biases exist because board members know the name. Board Member Langemeier declared that he sees the benefits of this because if he is asked about a matter under investigation, he would not know who is involved. This would also benefit the Board when it is accused of "out to get me." The Director asked, "At what point would it be reasonable for board members to know the identity?" The Director continued by saying this could occur only at the initial Board review, or go all the way to the final report. After more discussion, the Board agreed that Director Kohtz should solicit feedback from Special Assistant Attorney General Bill Blake. The Director informed the Board that he will provide a report at the July meeting.

The Board also requested that staff incorporate into the compliance documents, SAAG Blake's recommendation of him providing a summary of cases he is involved in each month. The Director informed the Board that he will request this of SAAG Blake before the July meeting.

7. CREDENTIALING AND REGISTRATION

- a. **Review of 2015-16:** A review of the credentialing and AMC registration programs took place for the 2015-16 fiscal year. The number of reciprocal credentials continues to rise, while the total number of resident credential holders have slowly declined during the past year. The number of resident Certified General Real Property Appraisers and Licensed Residential Real Property Appraisers have continued decreasing consistently, while the number of Certified Residential Real Property Appraisers have increased at a consistent rate. Overall, the number of appraisers is steady. The number of temporary permits issued per year remains strong. Finally, the number of registered AMCs is holding steady.
- b. **2016-17 Projections:** The Director presented six graphs for the Board's analysis. The first four graphs outlined appraiser trends, the next graph outlined the number of registered AMCs, and the final graph outlined temporary permit trends. The number of reciprocal credentials are projected to continue rising, while the total number of resident credential holders are projected to continue a slow decline. The Director noted that a low number of applicants during the past year adversely affected the trends. Right now it is hard to tell if it is a blip or a trend. Judging by the strong finish to the fiscal year, next year should be better. Temporary permits are projected to remain strong into the next fiscal year, and the decline in the number of AMCs leveled off as projected during last year's strategic planning meeting.
- c. **Real Property Appraiser Credentials:** Director Kohtz presented an email received from a current applicant, and brought attention to the recommendation that the Board complete some sort of courtesy review for trainee real property appraisers. Chairman Woodle commented on the irony that this email was received just as the Board has begun discussing the same thing. Director Kohtz informed the Board that Board Member Langemeier recommended that the Board offer a courtesy review for trainee real property appraisers at 500 hours. Board Member Langemeier added, "When I was at AARO, I learned that a lot of states are already doing this, and I think it would be a good idea if we offered the same thing." Director Kohtz informed the Board that he included \$5,250.00 in the budget for this purpose; however, the many questions need to be answered for the program to be developed. Director Kohtz indicated that he could add this as a regular agenda item in July to begin building the program. The Board agreed.

Director Kohtz then brought attention to the difficulties of growing the profession and the difficulties faced by trainee real property appraisers to becoming credentialed, and asked if the Board would have any interest in pursuing some sort of tax exemption, refund, or credit for trainee real property appraisers. Board Member Langemeier indicated that this would be so difficult to establish and monitor. Director Kohtz responded that he has seen this done in other states for other professions and thought it was worth mentioning. As for the logistics, the Director indicated that he would have no clue where to begin. The Board agreed to not pursue this.

d. Reciprocity: No discussion.

e. Temporary Practice: No discussion.

f. Real Property Associate: Board Member Woodle brought notice to previous conversations, and indicated that the Board intends to sunset the Real Property Associate.

g. AMC Registration: No discussion.

h. 2015-16 Goals and Objectives: No discussion.

8. EDUCATION

a. Qualifying Education: No discussion.

b. Continuing Education: A discussion took place concerning the 7-Hour Report Writing Update course required for continuing education. Director Kohtz was asked how many states have this requirement. The Director responded that Iowa used to, but Nebraska is currently the only state in the country with this requirement. Board Member Woodle brought attention to the difficulties for some to complete this course. Director Kohtz reminded the Board that the requirement was changed from a “7-Hour” course to a course of “at least 7 hours” to ease this burden for those living out of state. The Board then discussed the positives and negatives of this requirement, and concluded that the Board should explore the possibility of removing the 7-Hour Report Writing Update course from the continuing education requirements.

c. Trainee/Supervisory Appraiser Course: No discussion.

d. Post-Graduate Education: No discussion.

e. 2015-16 Goals and Objectives: Explore the possibility of removing the 7-Hour Report Writing Update course from the continuing education requirements before the 2017 strategic planning meeting.

9. PUBLIC INFORMATION

a. Website: No discussion.

b. Memos From the Board: No discussion.

c. Newsletter: No discussion.

d. Facebook Page: No discussion.

e. Other: No discussion.

- f. **2015-16 Goals and Objectives:** No discussion.

10. ADMINISTRATION

- a. **Policies and Procedures:** Director Kohtz informed the Board that the agency will continue to develop policies and procedures as needed to operate effectively and efficiently.
- b. **Retention Schedule:** Director Kohtz informed the Board that the retention schedule is complete, and will be removed from the strategic planning agenda.
- c. **NRPAB Database:** Director Kohtz informed the Board that work will continue on the Database as funding is available, and secondary projects will be presented to the Board as they are developed. Specifically, the Director would like to pursue online real property appraiser initial and renewal applications, and continuing education certificate submissions. If this is not completed during FY 2016-17 it will be added to the long range goals.
- d. **Other:** No discussion.

11. PERSONNEL GOALS AND OBJECTIVES:

- a. **Establishing Staff Stability:** Director Kohtz brought attention to a reoccurring theme during this meeting; staff stability needs to be established. The Director informed the Board that staff turnover and inconsistency is what prevents the Board from accomplishing many of its big picture goals and objectives. The Director continued by saying that the Business and Licensing Specialist position is set up well, and the compensation seems to be appropriate for the duties, so the problem has likely been finding the long term fit. As previously mentioned, the Director is making changes to the hiring procedures to open the evaluation up to more applicants, so hopefully stability is right around the corner for this position.

The Director then brought attention to temporary staffing during renewal season, and mentioned the suggestion by the Board's Budget Analyst, Robin Kilgore, to consider the use of interns instead of temporary employees. Director Kohtz indicated that two interns could be utilized instead of one regular temporary employee. Because interns are college students with more stability in their lives, compared to a person searching for a permanent job, it may eliminate or reduce the issues faced by the Board last year. During the last renewal season, the Board trained five temporary employees before one stayed through the remainder of renewal season. By the time it was over, the effort was not worth the outcome. The Director also offered that training two part time interns would insulate the Board from slowing productivity due to turnover during renewal season. If one intern left, at least there would be a second to continue working and help train any replacement for the other intern. The Director finished by saying that he doesn't know funding requirements for if the Board were to pursue interns for renewal season. The question is, would this funding be required to be PSL, or could it be incorporated into the operation budget, similar to the SOS Temporary Program? If the expenditure is required to be PSL, then this would have to be addressed in the 2017-19 Biennial Budget Request, if not, then it is a feasible option moving forward. The Board agreed that the possibility of utilizing student interns for renewal assistance should be explored.

- b. Compliance and Education Specialist Position Evaluation:** Director Kohtz presented a chart showing responsibilities and compensation of position peers of the Compliance and Education Specialist Position in other states, along with a preliminary assessment completed by Nebraska State Personnel based on the responsibilities of the Compliance and Education Specialist position. The Director informed the Board that this position has grown tremendously, and turnover would have an extremely negative effect on the Board's compliance program. The loss of experience and knowledge would take six months to a year to build back up, and the program would be halted until at least a basic knowledge base is developed in the replacement employee. Board Member Langemeier would like to know what effect a compensation increase would have on the budget base. Director Kohtz informed the Board that he will look into this and place this matter on the July agenda for discussion.

12. Other Matters: No discussion.

S. ADJOURNMENT

Board Member Hynek moved to adjourn the meeting. Board Member Bloxham seconded the motion. Motion carried with Gutwein, Langemeier, Hynek, Bloxham, and Woodle voting aye.

At 5:41 p.m. Chairman Woodle adjourned the June 23, 2016 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on July 8, 2016, in compliance with Nebraska Revised Statute §84-1413 (5).